

**REMARKS**

This Amendment and Reply is intended to be completely responsive to the Non-Final Office Action mailed June 3, 2008. Applicant respectfully requests reconsideration of the present Application in view of the reasons that follow. No claim amendments or cancellations have been made. Accordingly, Claims 5-26 will remain pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

**Claim Rejections – 35 U.S.C. § 103**

On pages 2 through 4, the Examiner rejected Claims 5-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,738,427 to Nishino (“Nishino”) in view of U.S. Patent No. 5,791,738 to Niezoldt (“Niezoldt”). This rejection should be withdrawn because Nishino, alone or in any proper combination with Niezoldt, fails to disclose, teach or suggest the claimed invention.

For example, independent Claim 5 recites a “seat for a vehicle” comprising, among other elements, a “seatback including a seatback frame made from a pipe and sub-frames, each of the sub-frames being cut from a pipe to have an upper cut end and a lower end, the upper cut ends of the sub-frames being respectively coupled to the seatback frame, the lower ends of the seatback frame and the lower ends of the sub-frames being supported by the support frames” (emphasis added).

Also, independent Claims 9 and 12 recite a “seat for a vehicle” comprising, among other elements, a “seatback including a seatback frame having lower ends and sub-frames having upper cut ends and lower ends, the upper cut ends of the sub-frames being coupled to the seatback frame, the lower ends of the seatback frame and the lower ends of the sub-frames being supported by the pair of support members” (emphasis added).

Further, independent Claim 14 recites a “seat for a vehicle” comprising, among other elements, a “seatback movably coupled to the first and second support members and including a first frame, a second frame and a third frame, the second frame and the third frame having first cut ends coupled to the first frame and second ends, ends of the first frame and the second ends of the second frame and third frame being supported by the first and second support” (emphasis added).

Nishino, alone or in any proper combination with Niezoldt, fails to disclose, teach or suggest such seats for a vehicle.

In rejecting Claims 5-26, the Examiner stated:

[E]ach of the sub-frames [of Niezoldt] has an upper cut end as is best disclosed in Figure 1. The ‘upper cut’ corresponds to a right angle cut out portion that receives an edges of reinforcement portion (8). This angle is capable of being formed by a cutting process and therefore constitutes an ‘upper cut end’

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Each sub-frame has an upper cut end where the frame element bends at a substantially right angle. In the right angle bent portion of each sub-frame a notch or cut out portion is present. This portion constitutes an upper cut end.

Applicant respectfully disagrees. With regard to the Examiner’s assertion that the right angle bent portion of each sub-frame in Niezoldt constitutes a cut end because the angle is capable of being formed by a cutting process, Applicant notes that this is inconsistent with the teachings of Niezoldt. For example, Niezoldt expressly states that “two flattened segments (6’ and 7’) lie on a common plane and serve as bearing surfaces for a separator (8)” (col. 2, lines 35-37). If the right angle bent portions were formed by a cutting process, flattened segments (6’ and 7’), and therefore the bearing surfaces, would not be formed, but instead, openings would be formed at these portions. The broken lines in Figure 1 clearly illustrate that the two flattened segments (6’ and 7’) are deformed in a right angle, not cut out. Further, one of ordinary skill in the art at the time of the invention would understand that these portions (6’ and 7’) are formed by

plastic deformation rather than by a cutting process because plastic deformation would leave flattened surfaces, while a cutting process would leave an opening and significantly weaken the structure.

Further still, to substitute cuts ends for the flattened segments taught by Niezoldt would not have been obvious to one of ordinary skill in the art at the time of the invention because such a modification would render the seat back disclosed in Niezoldt unsatisfactory for its intended purpose. If portions of the back support (3) and the front support (4) were cut out to form cuts ends for receiving the separator (8), the entire seat back structure would be significantly weakened as noted above. Weakening of the seat back structure would render the seat back disclosed in Niezoldt unsatisfactory for its intended purpose, which is to “contribute to a considerable increase in the seat back’s stability under load” (col. 3, lines 1-3). If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See M.P.E.P. § 2143.01 (V). As such, there is no suggestion or motivation to make the modification to Niezoldt proposed by the Examiner.

Accordingly, Applicant submits that independent Claims 5, 9, 12 and 14 are allowable over the cited references because at least one limitation in each of these rejected independent claims is not taught or suggested by the cited references. Dependent Claims 6-8, 10, 11, 13 and 15-26 variously depend from independent Claims 5, 9, 12 and 14, and are allowable therewith for at least those reasons set forth above, without regard to the further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejections of Claims 5-26 is respectfully requested.

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Applicant respectfully submits that each and every pending rejection has been overcome, and that the present Application is in a condition for allowance. In particular, even when the elements of Applicant’s claims, as discussed above, are given a broad construction and

interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the Application is respectfully requested.

Further, Applicant respectfully puts the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5349  
Facsimile: (202) 672-5399

Andrew E. Rawlins  
Attorney for Applicant  
Registration No. 34,702